

DIRECTOR OF HEALTH & HUMAN SERVICES

Part V – Private Property	Articles	5.1, 5.2, 5.4, 5.5, 5.7, <u>5.11</u> <u>(5.11</u> <u>“Short-</u> <u>Term</u> <u>Rentals”) to</u> <u>be effective</u> <u>1/1/22)</u>
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)Part V – Private Property	Articles	5.11 (5.11 (“Short- Term Rentals”) to be effective 1/1/22)
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TOWN ADMINISTRATOR

Part V – Private Property	Articles	5.11 (5.11 (“Short- Term Rentals”) to be effective 1/1/22)
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Or act on anything relative thereto.

ARTICLE 17

Submitted by: Susan Roberts and Maureen Coffey

To see if the Town will amend the General By-laws by adding the following article:

ARTICLE 5.11 Short-Term Rentals

[PETITIONERS' NOTE: PETITIONERS' ARTICLE BELOW IS REDLINED TO COMPARE THIS ALTERNATIVE ARTICLE TO THAT SUBMITTED BY THE MODERATOR'S COMMITTEE ON SHORT-TERM RENTALS, BASED ON THE COMMITTEE'S VOTE OF 2/24/21.]

Section 5.11.1 PURPOSE

The Town of Brookline adopts this By-law for the regulation and restriction of Short-Term Rentals within the Town in order to protect the health and safety of renters and residents, and to provide a process through which certain properties that meet specific

requirements and eligibility criteria may be registered with the Town of Brookline for use as Short-Term Rentals.

Section 5.11.2 DEFINITIONS

As used in this by-law, the following terms shall have the following meanings:

“Enforcement Authority”: As designated by Article 10.2 of the General By-Laws.

“Short-Term Rental”, or “STR”: The rental of a whole or portion of a Dwelling Unit for not more than 27 consecutive calendar days, as otherwise defined by M.G.L. Chapter 64G, Sec. 1, which shall be the Primary Residence of the operator.

In accordance with M.G.L. Chapter 64G, the term excludes properties that are, or that are required by law to be, licensed as a lodging house because the lodgings are rented to four or more persons not within the second degree of kindred to the owner or operator. The term also excludes properties that are, or that are required by law to be, licensed as a hotel, motel, or bed and breakfast establishment.

“Short-Term Rental Unit”: A whole or portion of a whole Dwelling Unit that is being offered as a Short-Term Rental.

“Short-Term Rental Operator”: Any person operating a Short-Term Rental. An Operator must be the owner of the Short-Term Rental Unit.

“Primary Residence”: Any property at which a resident resides for at least 183 days of the calendar year.

Section 5.11.3 ELIGIBILITY/APPLICABILITY

1. Any Short-Term Rental Operator seeking to establish a Short-Term Rental Unit must apply for and receive a Certificate of Registration, following the procedure set forth in Section 5.11.4. The following eligibility requirements shall apply to applicants seeking a Certificate:

- a. The Short-Term Rental Unit cannot be subject to any local, state, or federal income-eligible or income-restricted program that is designated as below market rate housing.
- b. The Short-Term Rental Unit shall not be subject to any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, stop work orders, or other requirements, laws or regulations that prohibit the Operator from offering the residential unit as a Short-Term Rental.
- c. The Short-Term Rental Unit shall not be in arrears regarding any municipal or state taxes, fines or fees. Short-Term Rentals, Short-Term Rental Operators, and Short-Term Rental Certificates of Registration are subject to Article 4.7 of the Town’s General By-laws.

d. The accommodations offered must be compliant with all applicable state and local codes, including building codes, fire codes and health codes.

e. Occupancy is limited to a maximum of two (2) guests per bedroom. ~~In a multi-unit building, occupancy is limited to a maximum of four (4) guests. In a single-unit building, occupancy is limited to a maximum of six (6) guests.~~

2. Nothing in this By-law shall be construed to make the Town responsible for compliance with or enforcement of a lease, condominium by-laws or other governing documents, or any contract or agreement to which the Town is not a party.

Section 5.11.4 REGISTRATION PROCEDURE AND SUBMISSION REQUIREMENTS

1. In connection with an application for a Certificate of Registration, the operator shall provide to the Select Board's Office all documentation that the Office shall require, which may include, but not be limited to:

a. Any application fee, as may be determined by the Select Board.

b. Proof of Primary Residence, either by: 1) providing proof of enrollment in the Brookline residential tax exemption program; or 2) an income tax return for the current year and a recent utility bill both showing the current address of the operator as the address of the Short-Term Rental Unit.

~~a.—c. Where a Short-Term Rental Unit is part of a condominium association, certification signed by the condominium association that the condominium association consents to the use of the Operator's unit as a Short-Term Rental.~~

~~Where a Short-Term Rental Unit is part of a condominium association, certification~~ a statement signed by the applicant that the operation of the Short-Term Rental ~~complies with all~~ is not prohibited by condominium documents, by-laws, or other governing documents.

d. Floor plan of the Short-Term Rental Unit indicating the specific rooms to be offered. The floor plan shall identify each room by a numerical or alphabetical identifier. The floor plan may be sketched by hand but should be legibly labelled with the numerical or alphabetical identifier and the use of that room (e.g., bedroom, living room, etc.). The floor plan should identify the rooms to be used as sleeping accommodations and the proposed maximum occupancy for each. An operator may be asked to resubmit a floor plan with amendments in the event it is unacceptable to the Town's inspectional departments for health and/or safety or code compliance reasons.

e. Local Contact Information. When registering, a Short-Term Rental Operator must provide their name, address, home telephone number, cell phone number, and email address, as well as such contact information for a secondary contact. Such contact information should identify at least one individual with corresponding contact information (including an active telephone number at

which the person will be reachable 24 hours a day) who can respond in person within two hours of contact by a Town official to any issue or emergency that arises during a Short-Term Rental.

f. Such other information and documentation as the Select Board's Office may determine.

~~b.a. Within 14 days of the issuance of a Certificate of Registration, the Select Board Office shall mail notice of the Certificate of Registration to abutters (property owners, residents and tenants) within 300 feet of the Short-Term Rental Unit.~~

2. The initial issuance and renewal of a Certificate of Registration shall be subject to the applicant's compliance with applicable federal, state and local law, including this By-Law.

3. The Certificate of Registration shall be valid for a period of one (1) to five (5) years, as the Select Board's Office may determine. The Certificate of Registration shall include a registration number, and shall identify the type of Short-Term Rental, the specific rooms that may be used as sleeping accommodations, and the maximum occupancy for each such room and for the unit as a whole.

4. An operator may seek modification of a Certificate of Registration, including with regard to rooms to be used as sleeping accommodation and maximum occupancies, by submitting such documentation as may be required by the Select Board's Office in connection with such request. Modification of a Certificate of Registration is subject to approval by the Town's Health, Building and Fire Departments, who may conduct a pre-approval health and safety inspection as necessary. No modification of a Certificate may effect a change to the type of Short-Term Rental for which the Certificate was issued.

5. Certificates of Registration are non-transferable. A Certificate of Registration shall be null and void upon a change in property owner or upon any change in the Primary Residence of the Short-Term Rental Operator that makes the unit ineligible for operation as a Short-Term Rental under this By-law.

6. An Enforcement Authority may revoke, suspend or modify a Certificate of Registration for ~~good cause. The violation of this By-law. Prior to such revocation, suspension or modification, the~~ Short-Term Rental Operator shall be provided with written notice and shall have the right to a hearing, or opportunity therefor, in connection with such action.

7. Should the Short-Term Rental Operator ~~be issued, be found by the Enforcement Authority to be in violation of this Bylaw~~ three (3) or more ~~violation notices~~ within any twelve (12) month period ~~under this article, or of any municipal ordinance, state law, or building code~~, the Certificate of Registration ~~will~~ may be suspended or revoked following written notice to the STR Operator and the opportunity for a hearing as provided in Section 5.11.4(6) above. In such case, a new Certificate of Registration may only be re-issued after a public hearing before the Select Board, which may, impose additional conditions. In the event an Enforcement Authority suspends or revokes an

operator's right to operate an STR, the Town shall notify the Massachusetts Commissioner of Revenue of the suspension or termination.

Section 5.11.5 INSPECTIONS

Prior to approving an initial Certificate of Registration, the Health, Building and Fire Departments ~~shall~~may conduct a health and safety inspection. Such inspections may be conducted upon renewal or in connection with an annual or other inspectional schedule to be determined by the Town. Such inspections may be used to verify that each Short-Term Rental Unit:

1. Meets all building, health and fire code and regulatory requirements.
2. Meets all requirements of this By-Law and of any regulations promulgated pursuant to this By-law.

Inspections shall be made on week-days during normal Town business hours. In addition, inspections may be made at other times (including but not limited to evenings and weekends) to investigate complaints and/or concerns regarding non-compliance or health and safety issues. Inspections shall be conducted in conformity with applicable federal, state and local law. Facilities requiring re-inspection are subject to applicable re-inspection fees.

Section 5.11.6 OPERATIONAL REQUIREMENTS FOR SHORT-TERM RENTAL UNITS

1. No person shall operate a Short-Term Rental without a current Certificate of Registration pertaining to the Short-Term Rental Unit.
2. Short-Term Rentals shall comply with all applicable federal, state, and local laws, regulations and codes.

~~Except as may be otherwise specified by Select Board regulation promulgated pursuant to this By-Law, a3.~~ A Short-Term Rental Operator may offer their Short-Term Rental Unit for up to ~~90~~365 days per year.

4. A Short-Term Rental must be operated consistent with the terms set forth on the Certificate of Registration and with applicable law, including, but not limited to, with regard to rooms to be used as sleeping accommodations, the maximum occupancy of each room, the maximum occupancy of the unit as a whole, and any other stated conditions.
5. The following must be included within each Short-Term Rental Unit:
 - a. Diagram indicating the location of all fire extinguishers, gas shut-off valves, fire exits and fire alarms inside the Short-Term Rental Unit, as well as in the building, as well as an evacuation route(s) highlighted in red. The diagram shall be posted (i) in each bedroom used as a Short-Term Rental, (ii) on all egresses from the Short-Term Rental Unit, and (iii) in common areas accessible to the Short-Term Rental Unit;

- b. A conspicuously placed binder with, at a minimum, the following information:
 - i. Local contact information including the name, address, home and cell phone numbers and email address for the Short-Term Rental Operator as well as one additional contact person who shall be reachable 24 hours a day in the absence of the Operator,
 - ii. Instructions for disposal of trash and recycling pursuant to any applicable requirements established by the Town of Brookline and/or by the property owner or condominium association,
 - iii. Information about Brookline parking regulations, including overnight parking restrictions and designated parking areas for guests, and
 - iv. Copy of Certificate of Registration from the Select Board's Office.
 - c. Fire extinguisher(s) which shall be of type ABC 10lb., dry chemical commercial with a tag to be tested and serviced annually by certified service company. Within a single-family unit, or multiple-unit building where units do not share a common access corridor, there shall be at least one acceptable type fire extinguisher available to the occupant within the unit. Where multiple units share a common access corridor on the same floor, one extinguisher may service up to four units, and be located within the access corridor on the same floor in a location to be determined by the Fire Department;
 - d. A hard-wired smoke/fire alarm system installed in accordance with M.G.L. Chapter 148 and NFPA 72; and
 - e. Any other documentation required by the Select Board's Office to be distributed inside Units.
6. Public advertisements (online or in print) for a Short-Term Rental shall include in the advertisement the Town-issued registration number associated with the Short-Term Rental's Certificate of Registration. A Short-Term Rental Operator shall only use the name stated on the application for an initial or renewed Certificate of Registration in on line or other listings of the Short-Term Rental Unit.
7. A Short-Term Rental Operator must keep accurate records of their business including date(s) of rental, rental rates, names of customers and customers' contact information for a period of three (3) years, and make them available to the Town upon request consistent with applicable federal, state and local law.
8. A Short-Term Rental Operator shall notify the Select Board's Office of any change in the Operator's Primary Residence within two (2) weeks of any change.
9. Renting for durations of less than twenty-four (24) consecutive hours shall not be permitted.

10. Commercial uses are prohibited in Short-Term Rental Units.

11. Short-Term Rental Operators shall cooperate and comply with lawful requests for information made by the Select Board's Office and its agents, including from the Planning, Building, Health, Police, Fire and Public Works Departments. Such requests may include requests for by-laws and other condominium documents in order to verify certification(s) submitted to the Town in connection with a Short-Term Rental Certificate of Registration.

Section 5.11.7 REGULATIONS

The Select Board may issue regulations for the implementation of this By-law, including for the establishment of any appeal process, and for the establishment of a cap on the number of Certificates of Registration issued.

Section 5.11.8 APPEALS

Unless provided otherwise by Select Board regulations, any person aggrieved by the action or failure to act of a certifying agent shall have the right of appeal to the Select Board. Such appeal must be made in writing and filed with the office of the Select Board within fourteen days from the date action was taken. If the party aggrieved appeals from a failure of a certifying agent to act within forty-five days from the filing of an application, such appeal shall be made in writing and filed with the office of the Select Board within sixty days from the date of application.

Section 5.11.9 FINES

Any person violating Without in any way limiting an STR Operator's rights as stated in Sections 5.11.4(6) and/or (7), for each violation of this By-law determined pursuant to said sections, a STR Operator shall be fined in the amount of \$300 for each violation. Each. Subject to Sections 5.11.4(6) and/or (7), each day of a continuing that a STR Unit is rented without such violation having been addressed as may be required, provided that said violation is not of a de minimis nature as determined by the Enforcement Authority, such rental day shall count as a separate violation.

Section 5.11.10 REPORTING

1. A list of Short-Term Rental Units with active Certificates of Registration will be published on the Town website and updated at least monthly. Information must include address, Short-Term Rental type, Certificate of Registration effective and expiration dates, and approved number of rooms with sleeping accommodations and guests and any other restrictions.

2. A list of Short-Term Rental Unit violations, as such violations have been determined in accordance with Sections 5.11.4(6) and/or (7), will be published on the Town website and updated at least monthly. Information must include Certificate of Registration number, address, date of violation, type of violation, and dollar amount of fine-, as provided in Sections 5.11.4(6) and/or(7).

Section 5.11.11 EFFECTIVE DATE

These amendments to the General By-law shall take effect on January 1, 2022.

Section 5.11.12 SEVERABILITY

If any provision(s) of this Article 5.11 of the General By-law is held to be invalid, such provision(s) shall be severed and the remaining sections shall be valid.

Or act on anything relative thereto.

ARTICLE 18

Submitted by: Preservation Commission

To see if the Town will amend Article 5.6.3 (f) of the Town's General By-Laws, entitled Preservation Commission & Historic Districts By-Law, by adding the **bold faced** text and by deleting the ~~striketrough~~ text:

(f) Lawrence Local Historic District

There is hereby established an Historic District, to be entitled the "Lawrence Historic District", the boundaries of which ~~shall be~~ **are** shown on the map entitled "Lawrence Historic District **as Extended**", a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law **and which supersedes the map entitled "Lawrence Historic District."**

or act on anything relative thereto.